THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.24371 OF 2005

-

-

Between;

V.Amarender sonof V.Narasimha Rao

…Petitioner

vs.

The Government of A.P. rep. By its Secretary,Dept,. of Revenue(Endowments) ,Hyderabad and two others.

….Respondents.

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.24371 OF 2005

ORAL ORDER

The petitioner assails the order of the 1st respondent in G.O.Rt.No.2120 Revenue (Endowments-II) Department, dated 05-11-2005 whereunder and whereby the contractual appointment of the petitioner is set aside. The petitioner was appointed on a contractual basis as an Assistant Engineer in the 3rd respondent-Devastanam by proceedings dated 25-03-2005 of the 3rd respondent. This appointment by the 3rd respondent was pursuant to permission accorded by the 2nd respondent to engage the services of an Assistant Engineer in addition to the existing engineering staff to supervise the work of the temple in accordance with a master plan in existence.

Several orders of a former Commissioner of Endowments were found to be suspect and his conduct and the integrity of his decisions was the subject of considerable debate and enquiry at appropriate levels. Several appointments processed by a former Commissioner of Endowments were perceived to be irregular. Several appointments pursuant to approvals granted by the former Commissioner were set aside by the State Government in G.O.Ms.No.1422 Revenue (Endowment) dated 25-07-2005. These orders came to be challenged before this Court in W.P.No.19840 of 2005. This Court found that the order of cancellation depriving the legitimate expectation of appointees was issued without notice or opportunity to the concerned and effected candidates. Consequently by the order dated 09-09-2005 this Court directed the Government to issue a show-cause notice to the petitioner herein and pass appropriate orders by 31-10-2005.

Admittedly a show-cause notice was issued to the petitioner on 14-10-2005. The petitioner submitted his explanation thereto. On considering the entire material on record including the explanation submitted by the petitioner, the records of the 3rd respondent-Devastanam and of the 2nd respondent office, by the impugned proceedings, the State Government found that the petitioner's case was not referred to a three (3) man committee as per the procedure in vogue with regard to appointments other than on a regular basis; that the petitioner's case for appointment on contractual basis was recommended by the Executive Officer of the 3rd respondent-Devastnam and was approved after processing by the then Commissioner of Endowments whose conduct and performance in office was seriously in question; that there is no provision for contractual appointment of Devastnam employees under the extant rules; that appointments have to be made only in accordance with the rules; that the petitioner was singularly chosen for

contractual appointment; and that the post was not filled up after considering the candidature of all eligible persons either sponsored by the Employment Exchange or who had applied pursuant to a notification issued advertising the post for contractual employment; and also that there was no sanctioned vacant post in the engineering wing of the 3rd respondent-Devastnam justifying the appointment of the petitioner even on a contractual basis. The State Government found that the proposal of the 3rd respondent and its approval-permission by the 2nd respondent for the appointment of the petitioner on contractual basis was illegitimate and unsustainable. Consequently the impugned order, canceling the appointment of the petitioner.

The learned counsel for the petitioner states that there is a widespread and extant practice in several Devastanams of appointing persons on contractual basis or even otherwise and dehors the statutory rules governing appointments and therefore the Government ought to have, in furtherance of such well established custom, upheld the petitioner's appointment on contractual basis. This contention is stated to be rejected. We are a republic of law. The Commissioner is a creature of A.P. Charitable and Hindu Religious Institutions and Endowments Act,1987 and has no authority or power to overreach the provisions of the Act. He is as much bound by the provisions of the statutory rules regulating appointments to posts in Devastanam as any employee of a Devastanam. He may violate the provisions of the statutory rules only at the peril of his office and to such decision. Any approval granted by the Commissioner in contravention of the statutory rules, the substance and procedure ordained by such rules for appointment of Devastnam staff is liable to be ignored by an Executive Officer, notwithstanding that it emanates from the office of the Commissioner of Endowments. An invalid order of the Commissioner is not in law an order of the Commissioner but an order of an individual in transgression of the statutory rules. Such an order is null and void and of no legal consequence. It binds not the Executive Officer and creates not any expectation legitimate or otherwise in any appointee.

On the aforesaid analysis the impugned order of the State Government is impeccable and is not liable to be interfered with.

The writ petition is without merits, beseeches rejection and is accordingly dismissed. No order as to costs.

-

_____

GODA RAGHURAM,J

8th DECEMBER 2005

***TSNR**